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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
PLAINTIFF,
v.
JAMES FRANCIS MURPHY
Defendant,

CASE NO. - 08 CR 1196 W

EXHIBIT 14

Aldinger v. Howard
427 U.S. 1 (1976)

James-Francis: Murphy
Third Party Intervener,
Real Party in Interest,
Authorized Representative

Magistrate Judge Nita L. Stormes
August 26, 2008 at 9:30am

Judge Thomas J. Whelan
September 8, 2008 at 2:00pm and
September 30, 2008 at 9:00am

Total pages of **EXHIBIT 14** attached- two (2)

James Francis Murphy, AR, appears and presents this exhibit for the court for submission into evidence now and/or at trial.

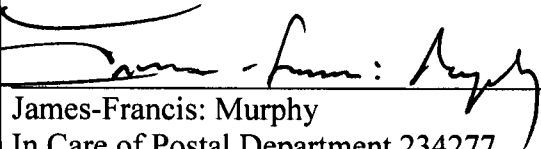
Respectfully submitted August 25, 2008,

James-Francis: Murphy
James-Francis: Murphy,
Authorized Representative

1 **CERTIFICATE OF SERVICE**


2
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ALDINGER V. HOWARD, 427 U. S. 1 (1976)

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U.S. Supreme Court

Aldinger v. Howard, 427 U.S. 1 (1976)

Aldinger v. Howard

No. 74-6521

Argued March 24, 1976

Decided June 24, 1976

427 U.S. 1

Syllabus

After petitioner had been discharged without a hearing by respondent county treasurer from her job in his office, she brought suit against the treasurer, the respondent county, and other county officers in Federal District Court under 42 U.S.C. § 1983, claiming that her discharge violated her federal constitutional rights and seeking injunctive relief and damages. Jurisdiction over the federal claim was asserted under 28 U.S.C. § 1343(3), which gives federal district courts jurisdiction over "any civil action authorized by law to be commenced by any person" to redress the deprivation, under color of state law, of federal constitutional rights, and pendent jurisdiction was alleged to lie over a state law claim against the county. The District Court dismissed the action as to the county on the ground that, since the county was not suable as a "person" under § 1983, there was no independent basis of jurisdiction over it, and that thus the court had no power to exercise pendent jurisdiction over the claim against the county. On an appeal from this dismissal, the Court of Appeals affirmed.

Held: A fair reading of the language used in § 1343(3), together with the scope of § 1983, under which counties are excluded from the "person[s]" answerable to the

Page 427 U. S. 2

plaintiff "in an action at law [or] suit in equity" to redress the enumerated deprivations, requires a holding that the joinder of a municipal corporation, like the county here, for purposes of asserting a state law claim not within federal jurisdiction, is without the District Court's statutory jurisdiction. While, with respect to litigation where nonfederal questions or claims were bound up with the federal claim upon which the parties were already in federal court, there is nothing in Art. III's grant of judicial power that prevents adjudication of the nonfederal portions of the parties' dispute, it is quite another thing to permit a nonfederal claim, in turn, to be the basis for joining a party over whom no independent federal jurisdiction exists, simply because that claim derives from the "common nucleus of operative fact," giving rise to the dispute between the parties to the federal claim. *Mine Workers v. Gibbs*, 383 U.S. 715, distinguished. The addition of a completely new party under such circumstances would run counter to the well established principle that federal courts, as opposed to state trial courts of general jurisdiction, are courts of limited

jurisdiction marked out by Congress. Pp. 427 U. S. 6-19.

513 F.2d 1257, affirmed.

REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C.J., and STEWART, WHITE, POWELL, and STEVENS, JJ., joined. BRENNAN, J., filed a dissenting opinion, in which MARSHALL and BLACKMUN, JJ., joined, *post*, p. 427 U. S. 19.

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